

## REMARKS

### Introduction

In the Office Action mailed on September 26, 2002 (Paper No. 3), the Examiner objected to claim 1, noting an informality therein; and rejected claims 1-43 under 35 U.S.C. § 103(a) over U.S. Patent No. 6,026,3762 to Kenney ("Kenney"). Applicants herein amend claims 1, 27, 31, and 35, and present new claims 44-47. For the reasons set forth in detail below, applicants submit that the pending claims are now all in condition for allowance.

### Technical Objection

The Examiner objected to claim 1, identifying an informality therein. Applicants herein amend claim 1 to resolve this informality, and respectfully request that the Examiner withdraw this objection.

### Applicants' Techniques

Applicants' techniques are directed to automatically initiating the replenishment of items such as physical products. These techniques establish a target date on which the item presently being used by a customer should probably be replenished. In some cases, these techniques determine the target date based upon the identity of the item. In some cases, the techniques autonomously send a replenishment recommendation to the customer through such communication channels as electronic mail, instant messaging, or voicemail. In some cases, the techniques provide a replenishment recommendation containing a control that the customer may, with a single interaction, use to request replenishment of the item. In some cases, the techniques, when they determine that the item should be replenished, automatically cause the item to be replenished, without requiring any action of the user.

### Cited Reference - Kenney

Kenney is directed to a much more limited approach to enabling the reordering of items *while the shopper is shopping at a shopping website*. In Kenney, the shopper first creates a list of items that may later be reordered, called a reorder list. (11:21-24)

When the shopper is later shopping, the shopper can display the items in the reorder list, and select items from the reorder list to be added to a current list. (11:13-15) The shopper may also enter new items into the current list. (11:15) When the shopper finishes shopping, the user controls his or her local computer to automatically organize the items in the current list, and print it if desired. (11:15-20)

#### Prior Art Rejection

The Examiner rejected claims 1-43 under 35 U.S.C. § 103(a) over Kenney. Applicants respectfully traverse this rejection.

Claim 1 recites "providing to the consumer an indication that the product should be replenished, *the indication including a control usable by the consumer to request replenishment of the product by performing a single interaction.*" Kenney fails to disclose or suggest the provision of such a control. To the contrary, Kenney makes clear that the user must select reorder items from a reorder list, enter new items to be selected, and control his or her computer to automatically organize his or her current list. Because these interactions amount to significantly more than the single interaction recited, claim 1 is patentable over Kenney, as is its dependent claim 44.

Claims 2 and 15 each recite "on the target date, providing to the consumer an indication that the first item should be replenished." Kenney fails to disclose or suggest providing such an indication on a target date. To the contrary, Kenney describes waiting until the shopper returns to the shopping website before providing anything that could be said to be an indication that an item should be replenished. (9:1-5,11:13-15) For this reason, claims 2 and 15 are patentable over Kenney, as are their dependent claims 3-14 and 16-26.

Claims 27 and 31 recite "scheduling for a time preceding the determined expiration time a unilateral transmission of a communication to the producing entity indicating that the item should be replenished." Kenney fails to disclose or suggest scheduling such a unilateral transmission. To the contrary, Kenney describes waiting until the shopper returns to the shopping website before providing anything that could

be said to be an indication that an item should be replenished. Accordingly, the approach described in Kenney has no need to -- and does not -- schedule such a unilateral transmission. For these reasons, claims 27 and 31 are patentable over Kenney, as are their dependent claims 28-30 and 32-34.

Claim 35 recites "a replenishment proposal subsystem that transmits to the purchaser in advance of the target date determined for the item by the replenishment targeting subsystem, *at a time at which the purchaser is not engaged in an electronic shopping activity*, a replenishment proposal to order a replacement for the item." Kenney fails to disclose or suggest a structure that transmits a replenishment proposal in this manner. As discussed above, Kenney describes providing replenishment indications only while the shopper is visiting the shopping website, which is clearly a time at which the purchaser is engaged in an electronic shopping activity. Accordingly, claim 35 is patentable over Kenney, as are its dependent claims 45-47.

Claims 36 and 38 recite an item replenishment data structure comprised of a plurality of entries. Each entry is recited to comprise "*an identification of a consumer*, an identification of an item, and an indication of a target date on which the replenishment of the item is to be proposed." Kenney fails to disclose or suggest the use of such a data structure. While Kenney may describe stored lists of items that may be replenished, it is clear from Kenney that these lists are stored separately for each shopper. There is no indication in Kenney that, in a data structure for transmitting communications to consumers proposing item replenishment, the identity of the shopper is stored along with each item in the shopper's reorder list. Doing so would be pointless, and, indeed, wasteful, as all of the items in each reorder list are associated with a single shopper. For this reason, claims 36 and 38 are patentable over Kenney, as is dependent claim 37.

Claim 39 recites "*without intervention by the consumer*, placing an order on the consumer's behalf for replenishment of the item." Kenney fails to disclose or suggest placing an order on the consumer's behalf in this manner. Indeed, as discussed above, a shopper cannot place an order for a reordered item in accordance with Kenney

without separately selecting an item from the reorder list, entering new items to be selected, and controlling the computer to automatically organize the current list in the manner the shopper wants. These steps clearly constitute intervention by the consumer that is required before an order can be placed. For this reason, claim 39 is patentable over Kenney, as is its dependent claim 40.

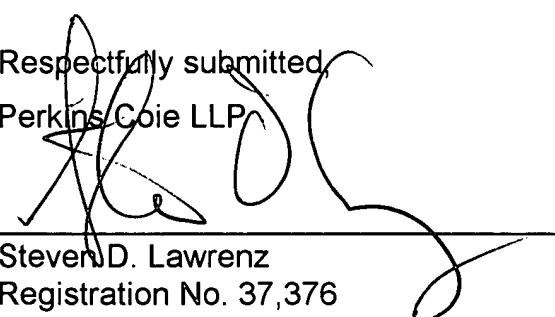
Claim 41 recites "when testing (a condition for suggesting replenishment of the item) indicates that the condition is satisfied, raising an event." Kenney fails to disclose or suggest raising such an event. Indeed, there appears to be no mention whatsoever in Kenney of using such event-driven techniques. To the contrary, Kenney appears to describe exclusively procedural techniques, that perform any such testing only in response to the shopper visiting the shopping website. For this reason, claim 41 is patentable over Kenney, as are its dependent claims 42 and 43.

#### Conclusion

In view of the foregoing, applicants submit that all of the claims pending in the application are allowable. Accordingly, a prompt Notice of Allowance is respectfully requested. If the Examiner has any questions or believes a telephone conference would expedite examination of this application, he is encouraged to call the undersigned at (206) 264-6373.

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**APPENDIX**

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the Claims:**

1. (Amended) A method in a data processing system for automatically initiating the replenishment of a consumable product, comprising:

on a first date, fulfilling an order by a consumer for a first instance of the product;

based upon the first date, estimating a second date by which the first instance of the product will be fully consumed;

before the second date, providing to the consumer an indication that the product should be replenished, the ~~indicating~~indication including a control usable by the consumer to request replenishment of the product by performing a single interaction;

receiving an indication that the control was used by the consumer to request replenishment of the product; and

in response solely to receiving the indication, ordering a second instance of the product to replenish the first instance.

27. (Amended) A method in a data processing system for assessing item replenishment, comprising:

determining that a purchasing entity possesses an item;

determining an expiration time for the item; and

scheduling for a time preceding the determined expiration time a unilateral transmission of a communication to the purchasing entity indicating that the item should be replenished.

31. (Amended) A computer-readable medium whose contents cause a data processing system to assess item replenishment by:

determining that a purchasing entity is using an item;

determining an expiration time for the item; and  
scheduling for a time preceding the determined expiration time a unilateral transmission of a communication to the purchasing entity indicating that the item should be replenished.

35. (Amended) A system for automatic item replenishment, comprising:

a replenishment targeting subsystem that, for a particular item purchased by a purchaser on a purchased date, determines a target date for replenishment of the item;

a replenishment proposal subsystem that transmits to the purchaser in advance of the target date determined for the item by the replenishment targeting subsystem, at a time at which the purchaser is not engaged in an electronic shopping activity, a replenishment proposal to order a replacement for the item; and

a replenishment ordering subsystem that orders a replacement for the item responsive to an affirmative response to the replenishment proposal from the purchaser.